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8
9 **IN THE UNITED STATES DISTRICT COURT**
10
11 **FOR THE DISTRICT OF ARIZONA**

12 Kashane Kirk, as Personal Representative
13 and on behalf of the Estate of Leontae
14 Kirk; Sharon Roberts, individually;
15 Brittnie Turner, on behalf of and as legal
16 guardian and parent of her minor child,
17 MC,

18 Plaintiffs,
19 vs.

20 City of Phoenix, a governmental entity;
21 Michael Sullivan, Chief of the Phoenix
22 Police Department; Autumn Ladines and
John Doe Ladines, husband and wife;
Officer Antonio Garza and Jane Doe
Garza, husband and wife; Sergeant Eric
Roy and Jane Doe Roy, husband and wife;
Jaclyn Ravelo and John Doe Ravelo,
husband and wife; Steven Ramirez and
Jane Doe Ramirez, husband and wife;
Jonathan Howard and Jane Doe Howard,
husband and wife;

23 Defendants

24 Case No: CV-23-00836-PHX-MTL
(CDB)

25
26 **FIRST ~~SECOND~~ AMENDED
27 COMPLAINT**

28 (JURY TRIAL DEMANDED)

(Assigned to the Honorable Michael T.
Liburdi and referred to the Honorable
Camille D. Bibles)

29
30 Plaintiffs, by and through their attorneys, Mills + Woods Law, PLLC, for their
31 Complaint against the CITY OF PHOENIX, a governmental entity; MICHAEL
32 SULLIVAN, Chief of the Phoenix Police Department; AUTUMN LADINES AND JOHN
33

1 DOE LADINES, husband and wife; OFFICER GARZA AND JANE DOE GARZA,
2 husband and wife; SERGEANT ROY AND JANE DOE ROY, husband and wife;
3 JACLYN RAVELO AND JOHN DOE RAVELO, husband and wife; STEVEN
4 RAMIREZ AND JANE DOE RAMIREZ, husband and wife; JONATHAN HOWARD
5 AND JANE DOE HOWARD, husband and wife; (collectively “Defendants”), hereby
6 allege as follows:

INTRODUCTION

This case arises out of the unlawful and wrongful use of deadly force by the Phoenix Police Department through the City of Phoenix and the officers listed as defendants. The individual defendants' actions are a direct result of the long standing and sustained practices of the City and the Phoenix Police Department violative of the United States Constitution.

12 Leontae was a loving father and was a musician who loved his craft. Kashane Kirk,
13 Leontae's brother describes Leontae:

14 He was never a trouble maker, he said when we were kids he always wanted
15 to be a music artist and have fun doing it and to put a smile on peoples' faces.
16 He was a selfless and giving person who only wanted to look out for his
17 family. He promised that if he ever made it in the music industry and received
a good income from it, he would take care of his family so they would not
have to struggle in life.

19 He was full of love and forgiveness when others would do him wrong in life,
20 he would be the type to be the bigger person in a situation. I can say no matter
21 how hard life got, he always tried to keep a smile on his face through all the
22 pain and struggles we would go through growing up. He would try to stay
busy with doing side jobs as much as possible as he got older and he worked
on doing music as well to stay busy. He wanted to be someone that others
look up to and would love to motivate kids to do good in life.

24 He was a loving father to his child, and he doted on her and pushed himself
25 to be that father figure as much as possible. He wanted the best for his child
26 and wanted her to see how much he loved her. He would be there for her for
27 special occasions and when his daughter had sporting events at school, he
would put forward the effort to go out of his way to see her and to cheer her
up to let her know that her father was there watching her.

1

2 **JURISDICTION AND VENUE**

3 1. Pursuant to 42 U.S.C. §1983 *et seq.*, Plaintiffs bring this action for violations
 4 of the United States Constitution, including without limitation the Eighth and Fourteenth
 5 Amendments and Arizona common and statutory laws, including A.R.S. §12-611, *et seq.*

6 2. The amount in controversy exceeds the minimal jurisdictional limits of this
 7 Court.

8 3. Jurisdiction is proper pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1367(a).

9 4. To the extent applicable, and without conceding that said statute applies,
 10 Plaintiffs have served their Notice of Claim upon Defendants in compliance with A.R.S.
 11 §12-611, *et seq.* More than sixty (60) days have expired since Plaintiffs served their Notice
 12 of Claim and Defendants have not responded in any manner to said Notice of Claim.

13 5. Pursuant to Article 6, Section 14 of the Arizona Constitution, this court has
 14 original subject matter jurisdiction in this Complaint because the claims relate to causes of
 15 action, the underlying acts and/or omissions for which, at all times relevant, have caused
 16 the events alleged herein to occur with primary effect in Maricopa County, Arizona.

17 6. Venue is proper pursuant to 28 U.S.C. § 1391(b) and in that the specific acts
 18 giving rise to the causes of action alleged herein occurred with primary effect in Maricopa
 19 County, Arizona.

20 **PARTIES**

21 7. At all relevant times until his death on November 2, 2022 at the age of
 22 twenty-nine (29), Leontae Kirk (“Leontae”) was an individual residing in Maricopa
 23 County, Arizona.

24 8. At all relevant times, Plaintiff Sharon Roberts (“Roberts”) was an individual
 25 residing in Maricopa County, Arizona, and is the natural mother of Leontae.

26 9. At all relevant times, Plaintiff Kashane Kirk (“Kashane”) as personal
 27 representative of the Estate of Leontae Kirk (the “Estate”) was an individual residing in
 28 Maricopa County, Arizona.

10. On May 10, 2023 the Superior Court, Maricopa County, Arizona, appointed

1 Kashane Kirk as Personal Representative of the Estate.

2 11. At all relevant times, Plaintiff Brittnie Turner on behalf of and as legal
 3 guardian of MC, a minor child, was an individual residing in Maricopa County, Arizona,
 4 and is the natural mother of minor child MC. At all relevant times, MC was an individual
 5 residing in Maricopa County, Arizona. MC is the natural child of Leontae Kirk.

6 12. On November 5, 2011, Leontae Kirk and Brittnie Turner gave birth to MC,
 7 a minor child.

8 13. Defendant CITY OF PHOENIX is a governmental entity that acts by and
 9 through its officials, employees, and agents, including without limitation the Phoenix
 10 Police Department, and each of the other Defendants in this action except for Defendants
 11 Humberto Gonzalez-Rios and Jane Doe Gonzalez-Rios.

12 14. Defendant MICHAEL SULLIVAN is the Chief of the Phoenix Police
 13 Department and is sued in his official and individual capacity. He is tasked with oversight
 14 of the Phoenix Police Department and is responsible for all policies and procedures
 15 promulgated by the Phoenix Police Department. He is an agent of the City of Phoenix and
 16 the Phoenix Police Department, operating in his official and individual capacity in
 17 Maricopa County, Arizona.

18 15. Defendant AUTUMN LADINES is a Police Officer, employed by and is an
 19 agent of the City of Phoenix and the Phoenix Police Department, operating in her official
 20 and individual capacity in Maricopa County, Arizona.

21 16. Defendant OFFICER ANTONIO GARZA is a Police Officer, employed by
 22 and is an agent of the City of Phoenix and the Phoenix Police Department, operating in her
 23 official and individual capacity in Maricopa County, Arizona.

24 17. SERGEANT ERIC ROY is a Police Officer, employed by and is an agent of
 25 the City of Phoenix and the Phoenix Police Department, operating in her official and
 26 individual capacity in Maricopa County, Arizona. a Police Officer, employed by and is an
 27 agent of the City of Phoenix and the Phoenix Police Department, operating in her official
 28 and individual capacity in Maricopa County, Arizona.

18. JACLYN RAVELO is a Police Officer, employed by and is an agent of the

1 City of Phoenix and the Phoenix Police Department, operating in her official and individual
 2 capacity in Maricopa County, Arizona.

3 19. STEVEN RAMIREZ is a Police Officer, employed by and is an agent of the
 4 City of Phoenix and the Phoenix Police Department, operating in her official and individual
 5 capacity in Maricopa County, Arizona.

6 20. JONATHAN HOWARD is a Police Officer, employed by and is an agent of
 7 the City of Phoenix and the Phoenix Police Department, operating in her official and
 8 individual capacity in Maricopa County, Arizona.

9 21. Defendants Roy, Ladines, Garza, , Ravelo, Ramirez, and Howard , for
 10 brevity's sake will be collectively referred to as "Phoenix Defendants" unless otherwise
 11 necessary to list them individually.

12 22. Defendants JOHN DOE LADINES; JANE DOE GARZA; JANE DOE
 13 ROY; JOHN DOE RAVELO; and JANE DOE RAMIREZ are included as Defendants
 14 because the Phoenix Defendants were acting for the benefit of their respective marital
 15 communities, if any, and therefore the respective marital communities, if any, are liable for
 16 their actions as set forth herein.

17 23. The City of Phoenix is vicariously liable under the principle of *respondeat*
 18 *superior* for the actions and inactions of the employees of the Phoenix Police Department
 19 (the "City") and any private contractors including those employees or contractors named
 20 as defendants in this action, as to any claims that are asserted by Plaintiff as a result of
 21 violations of the Arizona Constitution and Arizona common law because, at all relevant
 22 times, Defendants were acting within the course and scope of their employment or contract
 23 with Phoenix - or entities privately contracted with Phoenix.

24 24. For purposes of Plaintiffs' claims arising under Federal law, including
 25 without limitation the United States Constitution and 42 U.S.C. §1983 *et seq.*, and as may
 26 be relevant to Plaintiff's state law claims, at all relevant times described herein, Defendants
 27 were acting under color of state law.

28 25. Each of the Defendants failed to do what is minimally required of them by
 29 the United States Constitution, and the laws of the State of Arizona, relative to the care,

1 custody and control of Leontae Kirk.

2 26. By failing in these obligations, Defendants were deliberately indifferent to
 3 Leontae's rights guaranteed him by the United States Constitution and the State of Arizona.

4 27. As a result of Defendants' deliberate indifference and as a result of
 5 intentional acts and omissions to act that fell below the proscribed standard of care –
 6 through failures to properly supervise; properly carry out their job duties; and to properly
 7 administer medical attention – Kirk died at the age of twenty-nine (29).

BACKGROUND

UNITED STATES DEPARTMENT OF JUSTICE ANNOUNCES

INVESTIGATION INTO THE PHOENIX POLICE DEPARTMENT

10 28. The United States Department of Justice ("USDOJ") announced on August
 11 5, 2021 that they were investigating the Phoenix Police Department. A portion of the text
 12 of the announcement follows:

13 Attorney General Merrick B. Garland and Assistant Attorney General Kristen
 14 Clarke for the Civil Rights Division announced today that the Justice
 15 Department has opened a pattern or practice investigation into the City of
 Phoenix and the Phoenix Police Department (PhxPD).

16 This investigation will assess all types of use of force by PhxPD officers,
 17 including deadly force. The investigation will also seek to determine whether
 18 PhxPD engages in retaliatory activity against people for conduct protected by
 19 the First Amendment; whether PhxPD engages in discriminatory policing;
 20 and whether PhxPD unlawfully seizes or disposes of the belongings of
 21 individuals experiencing homelessness. In addition, the investigation will
 22 assess the City and PhxPD's systems and practices for responding to people
 23 with disabilities. The investigation will include a comprehensive review of
 24 PhxPD policies, training, supervision, and force investigations, as well as
 25 PhxPD's systems of accountability, including misconduct complaint intake,
 26 investigation, review, disposition, and discipline.

27 ***
 28

25 The investigation is being conducted pursuant to the Violent Crime Control
 26 and Law Enforcement Act of 1994, which prohibits state and local
 27 governments from engaging in a pattern or practice of conduct by law
 28 enforcement officers that deprives individuals of rights protected by the
 Constitution or federal law. The statute allows the Department of Justice to

remedy such misconduct through civil litigation. This is the seventy-third investigation of a law enforcement agency conducted pursuant to this statute since it was enacted in 1994. The department will be assessing law enforcement practices under the First, Fourth, and Fourteenth Amendments to the United States Constitution, as well as under the Safe Streets Act of 1968; Title VI of the Civil Rights Act of 1964; and Title II of the Americans with Disabilities Act.

Retrieved February 2, 2023 from <https://www.justice.gov/opa/pr/justice-department-announces-investigation-city-phoenix-and-phoenix-police-department>

29. As a result of the investigation, the City and the Phoenix Police Department received suggestions to increase the usage of de-escalation techniques and decrease the employment of unwarranted deadly force.

30. Based on the foregoing, it is unquestionable that there is a systemic failure within the City to train, supervise, and regulate the Phoenix Police Department and its agents. The policies and procedures in place have established a police force that acts with blatant disregard for Arizona citizens' constitutional rights and extreme indifference to the value of human life.

PHOENIX POLICE NEW USE OF FORCE POLICY

31. In order to properly establish the basis for the claims included herein, it is important to outline the longstanding history of the Phoenix Police Department, and its agents, systemic use of excessive force and unlawful use of deadly force against the citizens of Phoenix, Arizona. This pattern of unlawful policing has been overseen, managed, and sustained by the City.

32. For decades, the City of Phoenix has established and implemented policies and procedures that have consequently generated a police force that consistently acts with wanton disregard for the constitutional rights of individuals and the sanctity of human life.

33. Despite the evidence to the contrary, the Phoenix Police Department alleges that their Officers receive Operations Orders that can guide their actions, but the patterns and practices of the City and the Phoenix Police Department have been violative of Arizona citizens' rights for years.

34. It should be noted that the Phoenix Police Department's Use of Force Policy

1 ("Force Policy") was updated in January 2023. The Phoenix Police Department – as
 2 discussed herein – has been the subject of a USDOJ investigation due to their violent,
 3 racially-motivated tactics.

4 35. The Phoenix Police and City's policies, patterns, and practices regarding use
 5 of force and "active shooters" has been woefully deficient for years.

6 36. Upon information and belief, Phoenix Police Chief Michael Sullivan was
 7 hired in September 2022 specifically to help the department address the wide-ranging and
 8 ongoing probe by the USDOJ.

9 37. A major component of the USDOJ's investigation is into the use of force of
 10 Phoenix Police officers. The Phoenix Police Department is no stranger to civil wrongful
 11 death lawsuits and years of protests. It is an institutional problem and the City, the Police,
 12 and the Phoenix Defendants are all actors in the shameful display of policing and failure to
 13 take accountability, including misconduct complaint intake, investigation, review,
 14 disposition, and discipline that has occurred throughout the years – culminating in the
 15 horrific, violent, take no prisoners approach the Offenders used on November 2, 2022 to
 16 murder Leontae Kirk.

17 38. In response, Sullivan implemented a new Use of Force Policy ("Force
 18 Policy") that applies to all Phoenix Police Officers. Operations Order 1.5 details the Force
 19 Policy.

20 39. According to the Force Policy, the purpose is:

21 [T]o establish what constitutes a permissible use of force by an employee, and
 22 the employee's duties before, during, and after using force. The goal of every
 23 encounter is to resolve it without resorting to force, and using force in any
 24 case must be based on a careful assessment of the situation, including the
 25 threats, options, and risks faced by the employee.

26 *Phoenix Police Department Use of Force Policy Rev. 01/23 retrieved from*
 27 <https://www.phoenix.gov/policesite/Documents/1.5%20Use%20of%20Force%202023.pdf>
 28 f on February 2, 2023.

29 40. The Force Policy further states that "The standards established by this
 30 Department policy are deliberately stricter than the Constitutional and legal minimums

1 established by the Courts. These more rigorous standards for use of force must be complied
 2 with.” *Id.*

3 41. The Core Principles in the new Force Policy are:

4 A. Sanctity of Human Life – Employees shall make every effort to preserve human
 5 life in all situations.

6 B. Value and Worth of All Persons – Employees shall respect and uphold the value,
 7 rights, liberty, and dignity of all persons at all times.

8 C. Use of Force: Reasonable, Necessary, and Proportional – Employees shall use
 9 only the force that is reasonable, necessary, and proportional to effectively and safely
 10 resolve an incident. The employee will immediately reduce the level of force as the
 11 threat or resistance diminishes.

12 D. De-Escalation – Employees shall use de-escalation techniques and tactics when
 13 feasible to attempt to reduce any threat or gain compliance with lawful commands
 14 without the use of force. If that is not possible, the employee must reduce or eliminate
 15 the threat using the lowest level of force possible. Employees shall avoid action or
 16 language that escalates an encounter unless necessary to achieve a lawful purpose.

17 E. Continuous Assessment – Employees shall continuously assess each situation and
 18 modify their response as the circumstances change—before, during, and after an
 19 employee uses force. Employees may be justified in using force at a particular
 20 moment but not justified in using force when circumstances change.

21 F. Reporting Use of Force – Each employee who uses force, or observes another
 22 employee or employees use force, shall notify their supervisor as soon as practical,
 23 and will accurately complete the required Incident Report and/or any supplements
 24 by the end of their shift.

25 G. Duty to Intervene – All employees shall intervene, with no fear of retaliation,
 26 when they know or should know another employee is using unreasonable force or is
 27 otherwise engaging in abusive behavior or misconduct.

28 H. Duty to Provide Medical Assistance – As soon as practical after any Use of Force
 29 incident, employees are responsible for requesting medical treatment for injured
 30 subjects and rendering aid consistent with the employee’s training.

I. Accountability – Employees shall be held accountable for uses of force that violate
 31 law or policy. Employees have an absolute duty to report all misconduct, including
 32 but not limited to, the use of excessive force.

1 J. Retaliatory Force – Employees shall not use force against persons to punish them
 2 for fleeing, resisting arrest, assaulting an employee, or for any other reason. *Id.*

3 42. Use of Force is defined as:

4 (1) Sworn and civilian employees acting in an enforcement capacity have the
 5 authority to use Reasonable, Necessary, and Proportional force when necessary
 6 to accomplish lawful objectives.

7 (a) This authority is limited by the United States Constitution, federal law,
 8 laws of the State of Arizona, and the provisions of this policy.

9 (b) Employees must conform their actions to the requirements of these
 10 sources of lawful authority.

11 (c) When employees use force, they shall exercise the utmost restraint.

12 (d) Employees should announce that force will be utilized prior to the
 13 application of such force unless it is impractical to do so.

14 (2) Employees shall prevent or stop the illegal, inappropriate, or excessive Use of
 15 Force by other employees. Failure to intervene may subject an employee to
 16 disciplinary action.

17 (3) Only Department-issued or approved weapons, equipment, and irritants are
 18 authorized.

19 *Id.*

20 43. The Force Policy defines the Use of Deadly Force as:

21 (1) The use of Deadly Force shall always be the last resort.

22 (2) Employees shall not use Deadly Force unless:

23 • They have exhausted De-escalation and Less-Lethal Force options;

24 • These alternatives have been tried and failed; or

25 • These alternatives are not safe based on the Totality of Circumstances.

26 (3) Employees may use Deadly Force when they reasonably believe such action is
 27 immediately Necessary to protect an employee or another person from an Imminent
 28 Threat of death or Serious Physical Injury.

29 (4) Prior to the decision to employ Deadly Force, employees shall consider
 30 environmental considerations such as field of fire, backdrop, bystanders, potential

1 for ricochet, possibility of over- penetration, and other risks to life.

2 (5) Where safety permits, employees should identify themselves as a law
3 enforcement officer and state their intention to use Deadly Force before using a
4 firearm or employing Deadly Force.

5 (6) An employee may use Deadly Force to prevent the escape of a fleeing person if
6 force is authorized and no reasonable force alternative exists, provided that:

- 7 • There is probable cause to believe that the person has committed or is in
8 the process of committing a felony involving the infliction or threatened
infliction of Serious Physical Injury or death, and
- 9 • The escape of the person would pose an Imminent Threat of death or
10 Serious Physical Injury to the employee or another unless the person is
11 apprehended without delay, and
- 12 • If time, safety, and circumstances permit, employees have identified
13 themselves as law enforcement officers, have stated their intention to use
14 Deadly Force, and have given the person a reasonable opportunity to comply
voluntarily.

14 *Id.*

15 44. The Force Policy defines the following duties:

16 A. Duty to Intervene

17 (1) Employees shall intervene to stop any employee from using excessive
18 force and/or engaging in abusive behavior or other forms of misconduct;
19 intervention may be verbal and/or physical.

20 B. Duty to Provide Medical Assistance

21 (1) As soon as practical, when there is a visible injury, complaint of injury,
22 signs of medical distress, or when medical attention is requested by any
23 person, employees shall render aid consistent with their training.

24 (a) When safe to do so, the employee shall promptly request that
25 medical personnel respond to the scene.

26 (b) The employee shall then notify their supervisor.

27 (2) If a person has been subjected to impact by any type of Less-Lethal Force,
28 including CEW, impact weapons, or impact projectiles, the person will be
provided with medical treatment.

1 *Id.*

2 45. The updates to the Use of Force Policy show that the policies and procedures
 3 in place at the time of Leontae's death failed to protect members of the public.

4 46. Even if the Force Policy as it exists now had been in place on November 2,
 5 2022, it still proves that the force used by the Phoenix Defendants was unnecessary,
 6 extreme, reckless, grossly negligent, and shows that the Offenders did nothing to verify the
 7 situation, use less lethal methodologies, or use plain common sense. The Phoenix
 8 Defendants – each and every one of them – had a duty to intervene.

9 **The City of Phoenix' Patterns, Policies, and Practice are Violative of the Rights
 10 Protected by the Constitution and Federal Law**

11 47. Since 2015, there have been at minimum eighty-eight (88) officer involved
 12 shootings that resulted in the fatalities of the suspect. Fifty-three (53) of those fatalities
 13 were black individuals.

14 48. Chief Sullivan has even recognized that the City has failed to properly train
 15 or implement constitutionally sound policies to prevent fatal Phoenix Police shootings.

16 49. On November 21, 2022 – just nineteen (19) days after the fatal shooting of
 17 Leontae, Chief Sullivan presented a four-pronged plan to fix the failings of his predecessors
 18 and the City's woefully deficient policies and training programs regarding the use of force,
 including deadly force.

19 50. These include:

- 20 • Reinforce patrol briefing training on time, distance, and cover;
- 21 • Implement scenario-based training on de-escalation;
- 22 • Review the agency's use-of-force policies; and,
- 23 • Expand the training on less-lethal tools.

24 <https://www.phoenix.gov/newsroom/police/2573>

25 51. According to the Chief:

26 The initial few moments after officers arrive on a scene are critical. "The
 27 decisions and actions of law enforcement officers are critically important and
 28 can change the course of lives in a matter of seconds. That responsibility
 forces us to constantly look at ways to get better and do better," said Chief
 Sullivan.

1 *Id.*

2 52. The Chief also writes:

3 An expansion of the Department's less lethal program is underway. Starting
 4 this week, and for the following four weeks, 12 officers per week will be
 5 trained on less lethal tools, specifically the PepperBall. This tool allows law
 6 enforcement the ability to disable or deter threats, resolve situations without
 7 lethal force, and accomplish missions while preserving life. The goal is to
 8 equip an additional 400 officers with less lethal options before the end of
 9 2023, 200 PepperBall devices and 200 40mm impact launchers.

10
 11 “This plan revolves around the concept that preservation of life is at the core
 12 of policing,” said Sullivan. “Becoming a self-correcting organization fosters
 13 continuous improvement which allows us to refocus on that core ideal which
 14 is more important now than ever.”

15 *Id.*

16 53. In late November 2022 – after the death of Leontae Kirk – Sullivan is quoted
 17 as saying: “The desire is for more training... I think the years of the pandemic where we
 18 didn’t get to do in-person scenario training, . . . [t]hat training was very successful
 19 previously and I look forward to bringing in a national group and really enhancing the
 20 scenario-based training that we’ve had in the past.”

21 53.54. The City has engaged in a pattern or practice of conduct by law enforcement
 22 officers that deprives individuals of rights protected by the Constitution or federal law.

23 54.55. These new measures are a step forward, but the pattern and practice of the
 24 City depriving individuals of rights protected by the Constitution or federal law lead
 25 directly to Leontae’s death.

26 55.56. The City of Phoenix continues to knowingly authorize policies and
 27 procedures that result in the wrongful death of Arizona citizens.

28
 29 **USDOJ FINDINGS**

30 57. On June 13, 2024, The USDOJ Civil Rights Division issued a 126-page
 31 report titled “Investigation of the City of Phoenix and the Phoenix Police Department” (the
 32 “Report”).¹

33
 34 1 Retrieved October 4, 2024 from <https://www.justice.gov/crt/media/1355866/dl?inline>

1 58. The Report's Executive Summary states:

2 On August 5, 2021, the Department of Justice opened a pattern or practice
 3 investigation of the Phoenix Police Department (PhxPD) and the City of
 4 Phoenix ("the City" or "Phoenix"). Our investigation revealed systemic
 5 problems within PhxPD that deprive people of their rights under the
 6 Constitution and federal law. *We found pervasive failings in PhxPD's*
policies, training, supervision, and accountability systems that have
disguised and perpetuated these violations for years.

7 (emphasis added)

8 59. On the USDOJ website and in the Report, it is explicitly stated that "the
 9 Department finds that: PhxPD uses excessive force, including unjustified deadly force and
*other types of force.*²²

10 60. Chief Sullivan was appointed interim Chief in July 2022.

11 61. According to the Report, Chief Sullivan has started implementing certain
 12 reforms, including updates to PhxPD's use-of-force policy and training. "I saw some uses
 13 of force that made me think that we need to do something different," he told Justice
 14 Department investigators.

15 62. To determine the pattern and practice analysis, the Report cites to 34 U.S.C.
 16 § 12601; see also 42 U.S.C. § 12101 et seq. A pattern or practice exists where violations
 17 are repeated rather than isolated. *Int'l Bd. of Teamsters v. United States*, 431 U.S. 324, 336
 18 n.16 (1977). A pattern or practice does not require the existence of an official policy or
 19 custom. *United States v. Colorado City*, 935 F.3d 804, 810 (9th Cir. 2019).

20 63. The report also found that Phoenix Police's training and weak oversight
 21 contribute to the pattern of excessive force, specifically finding that "PhxPD training has
 22 mischaracterized the law and encouraged immediate and indiscriminate force, which
 23 predictably results in excessive force. Many of the problematic practices we saw originated
 24 with PhxPD training. Despite systems for oversight and review, PhxPD's chain of
command approved nearly all use-of-force incidents, including those described above.

25 64. The report found that:

27 2 Retrieved October 4, 2024 from <https://www.justice.gov/opa/pr/justice-department-finds-civil-rights-violations-phoenix-police-department-and-city-phoenix>

1 PhxPD also has trained officers to use serious force to respond to hypothetical,
 2 not actual, danger. For example, in a training for all supervisors at a station,
 3 PhxPD showed a video of an incident in which an officer shot a man carrying
 4 a knife with a 40mm round. Although the man was on a deserted street in
 5 downtown Phoenix at 2:45 a.m., trainers said the force was reasonable
 6 because there “was an element of jeopardy.” The jail was across the street and
 7 people “could be” released at any time. Trainers have also taught officers to
 8 fire Tasers and 40mm projectiles against a person in a behavioral health crisis
 9 if the person does not comply with commands, whether or not the person
 10 presents a threat. The mindset that a theoretically possible future threat,
 11 however unlikely, justifies immediate force violates the Fourth Amendment.

12 65. The USDOJ report continues:

13 Phoenix has trained its officers that all force—even deadly force—is de-
 14 escalation. This attitude runs contrary to the basic principles of de-escalation,
 15 which offers strategies, such as time, distance, cover, and verbal persuasion,
 16 to help a person voluntarily comply with officers without the need to use force
 17 or to lessen the force needed. 34 PhxPD officers have been trained to “use
 18 escalation to de-escalate the situation” as quickly as possible. One trainer
 19 suggested immediate force stops a situation “before you really have to hurt
 20 someone,” and explained that “de-escalation, like talking nice, will get
 21 someone killed.” In practice, this translates to quickly using unreasonable
 22 force, often without considering whether any force is necessary at all.

23 Indeed, in some trainings we observed, trainers encouraged officers to use
 24 force without warning or just seconds after arriving at a scene, regardless of
 25 whether the person presented an apparent risk to officers or others.

26 66. The USDOJ report details more training that is unconstitutional:

27 Similarly, PhxPD has taught officers that it is appropriate to fire projectiles at
 28 people who are not following commands but pose no threat. Indeed, 40mm
 1 operators have been trained they can fire when faced with “passive
 2 resistance,” such as when a person is defiant in response to commands, but
 3 not aggressive. For example, in a role-playing training we observed, officers
 4 stopped a driver on suspicion of assault. The actor got out of his car with his
 5 hands up but did not follow the trainee’s directions and was moving around
 6 and yelling. Eventually, the trainee shot the actor with a 40mm round. During
 7 the debrief, instructors told the trainee that he should have taken more decisive
 8 action and fired the moment the actor did not comply with a command.

29 67. The Report found that there are several patterns that Phoenix Police use that
 30 violate constitutional rights:

1 PhxPD uses unconstitutional deadly force. We identified several patterns:

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- First, officers violate the Constitution when they fire their weapons at people who present no immediate threat of harm, and they continue to shoot at people after they are no longer a threat.
- Second, officers shoot when their own actions have created or greatly magnified the risk they face. We identified unconstitutional shootings that likely could have been avoided absent officers' reckless tactics.
- Third, officers unreasonably delay rendering aid to people they have shot, and at times use significant, unreasonable force against people who are already incapacitated, sometimes even unconscious, as the result of police gunfire.

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68. The Report further found that “[f]or big city police departments, PhxPD has one of the highest rates of fatal shootings in the country per year. PhxPD typically reports more than 20 police shootings each year and sometimes significantly exceeds that number.”

69. The Report, under a heading entitled “PhxPD Officers Fire Their Guns at People Who Present No Immediate Threat” found that:

PhxPD officers fail to properly assess whether to shoot once they see a person holding a weapon, even when the person presents no immediate threat.

* * *

At times, officers continue to shoot after any threat has ended. Under the Fourth Amendment, justification for deadly force, or any force, may end after the first gunshot. “[T]erminating a threat doesn’t necessarily mean terminating the suspect. If the suspect is on the ground and appears wounded, he may no longer pose a threat; a reasonable officer would reassess the situation rather than continue shooting” *Zion v. Cty. of Orange*, 874 F.3d 1072, 1076 (9th Cir. 2017).

Report at 16

70. Furthermore, another individual died at the hands of Phoenix Police a little less than two (2) months preceding Leontae’s death.

71. The individual was shot and killed because he was throwing rocks at the police.

1 72. The City of Phoenix settled that case and paid the family five million five
 2 hundred thousand dollars (\$5,500,000).

3 73. The City of Phoenix Mayor, Kate Gallego, approved the settlement, stating
 4 that “It (the settlement) does not bring him back, but that lesson learned will save lives to
 5 come.”

6 74. She further stated that “The problem was at a policy level. We did not have
 7 the right policies guiding how to respond, so we have dramatically changed what we would
 8 do today.”

9 75. The Phoenix Police Department and the City authorized customs, policies,
 10 patterns and practices that are unconstitutional.

11 76. These customs, policies, patterns and practices were utilized in the Phoenix
 12 Defendants’ response to Leontae Kirk.

13 77. The three patterns the USDOJ found above are exactly the patterns that were
 14 used against Leontae.

15 78. For example, Leontae presented no immediate threat of harm, but the
 16 Phoenix Defendants opened fire and utilized deadly force as their first resort/response.

17 79. Additionally, the Phoenix Defendants continued to shoot at Leontae even
 18 though he was never a threat and was already incapacitated.

19 80. The Phoenix Defendants recklessly approached the scene – they ignored the
 20 other person, Humberto, that had pulled a weapon on Leontae – and they ignored the facts
 21 in front of them – that Leontae was not a threat.

22 81. Additionally, the Phoenix Defendants unreasonably delayed rendering aid to
 23 Leontae after they shot him 19 times.

24 82. They also used additional unreasonable force *after* shooting Leontae 19
 25 times.

26 83. They fired 40mm canisters into Leontae’s body to ostensibly see if he would
 27 react.

28 84. They then continued to delay medical attention for somewhere between six
 29 (6) and (10) minutes.

1 85. Each of those practices fell exactly in line with the patterns of
 2 unconstitutional behavior that the USDOJ found.

3 **FACTUAL ALLEGATIONS**

4 56.86. On November 2, 2022, Leontae was walking to a convenience store to
 5 purchase a can of beer for \$3.00.

6 57.87. Upon information and belief, along the way, he encountered multiple people
 7 with whom he had conversations.

8 58.88. Leontae continued on his way and arrived at the convenience store.

9 59.89. In video, you can clearly see Leontae interact with multiple people. With the
 10 exception of one person, Leontae's interactions were mostly jovial and ended with
 11 handshakes.

12 60.90. Unbeknownst to Leontae, a Hispanic individual - Humberto Gonzalez-Rios
 13 – followed him to the convenience store at 3710 W. McDowell Road.

14 61.91. Humberto then followed Leontae into the convenience store.

15 62.92. No physical altercation between the two occurred in the convenience store.

16 63.93. Humberto exited the convenience store before Leontae did.

17 64.94. Humberto went to “his” motorcycle and retrieved a gun.

18 65.95. He then sat on “his” motorcycle with his gun and waited for Leontae to exit
 19 the store.

20 66.96. On video – while Humberto was lying in wait – a man pushing a stroller with
 21 his child is seen.

22 67.97. When Leontae exited the store, his back was to Humberto.

23 68.98. He turned around and saw Humberto sitting on “his” motorcycle with a gun
 24 pointed at Leontae.

25 99. Leontae ran.

26 100. Leontae pulled his weapon out as a show of defense.

27 101. In some circumstances, Arizona state law explicitly allows the “defensive
 28 display of a firearm.” A.R.S. § 13-421 (“The defensive display of a firearm by a person
 against another is justified when and to the extent a reasonable person would believe that

1 physical force is immediately necessary to protect himself against the use or attempted use
 2 of unlawful physical force or deadly physical force.”).

3 69.102. This was a clear defensive display of a firearm by Leontae because he
 4 reasonably believed he was going to be harmed or be subjected to deadly force at the hands
 5 of Humberto.

6 103. Leontae never fired his weapon.

7 70.104. Leontae never pointed his weapon at officers, nor did he threaten to shoot
 8 anyone – including the Phoenix Defendants.

9 71.105. Police investigations confirmed through ballistics or otherwise that Leontae
 10 never fired his weapon.

The Helicopter Officers

11 72.106. At this point, a Phoenix Police Helicopter was above the scene.

12 73.107. Incredibly, the “Helicopter Officers” – Howard, who was the pilot, and
 13 Ramirez, the spotter with the primary job of relaying accurate information – claimed that
 14 they saw Leontae and Humberto actively firing their weapons.

15 74.108. Dispatch audio announced inaccurately that there was an “ACTIVE
 16 SHOOTER” situation.

17 75.109. The Helicopter Officers had binoculars. They had visual line of sight on
 18 Leontae.

19 76.110. Yet, they failed in the simplest of tasks, Observation.

20 77.111. The Helicopter Officers recklessly and wrongfully reported ~~what was plain~~
 21 ~~to see. They reported~~ false information that Leontae was firing his weapon.

22 78.112. The Helicopter Officers have one overriding job: to observe.

23 79.113. They then report what they see. Mistakes cannot happen – they are life and
 24 death decisions.

25 80.114. The Helicopter Officers reported that there was an active shooter – when
 26 there clearly was not.

27 81.115. Because of The Helicopter Officers’ complete dereliction of their duties, they
 28 doomed Leontae to death by police.

1 82.116. The Helicopter Officers failed not only at their jobs and their duties, but they
 2 provided false information to their colleagues.

3 117. The Helicopter Officers kicked off the fracas through their complete
 4 ineptitude or wanton disregard of their duties to protect the public from personal injury or
 5 harm to property.

6 118. At any point during their constant observation, they could have relayed
 7 updated information – that Leontae was not in fact firing a weapon.

8 83.119. They did not.

9 84.120. They are as responsible for the killing of Leontae as the Defendants who
 10 actually shot him.

False and Deadly Information

11 85.121. The Helicopter Officers' bad information does not excuse the subsequent
 12 actions by the Defendants.

13 86.

14 87.122. 911 callers and witnesses give inherently skewed and flawed information.

15 88.123. This is well known in the policing community.

16 89.124. This is why it is of dire importance to have officers on foot verify information
 17 before charging in with their guns blazing.

18 90.125. A witness provided the following information "WHILE WALKING
 19 EASTBOUND ON THE SOUTHSIDE OF McDOWELL ROAD SHE OBSERVED
 20 WHAT SHE DESCRIBED AS A HISPANIC MALE IN HIS 20'S OR 30'S WEARING A
 21 YELLOW JACKET, RED SHORTS AND BLACK SLIPPERS WAS POINTING A GUN
 22 AND HER AND HER FRIENDS FROM THE NORTHSIDE OF McDOWELL AND
 23 TOLD THEM TO BE QUIET."

24 91.126. Any report claiming that Leontae fired his weapon was obviously one
 25 hundred percent false.

26 92.127. Leontae never fired a weapon.

27 93.128. The report regarding a yellow jacket and red shorts was inaccurate.

28 94.129. No witness could A) accurately describe what they saw; or, B) saw a

1 completely different person than Leontae pointing a gun at people.

2 95.130. The Defendants instead ignored what their eyes could plainly see – that upon
3 their arrival, Leontae was in a surrendering position with his hands up and had no weapon
4 in his hands.

5 96.131. While Leontae was running away from his aggressor, he managed to pull his
6 own gun out of his pocket in defense.

7 97.132. Video footage proves this.

8 98.133. Leontae ran away and lawfully waved his gun up in the air as a show of
defense while frantically searching for cover.

Humberto Gonzalez-Rios

9 99.134. Humberto Gonzalez-Rios was the aggressor, but he wasn't even given a
10 second thought by the Defendants.

11 100.135. To date, upon information and belief, shockingly, Humberto has not been
12 charged with a crime, despite the fact that he committed clear assault and instigated
13 everything that followed.

14 101.136. Despite knowing that two individuals were brandishing weapons (not firing
15 weapons), the Phoenix Defendants seized upon the opportunity to target the only black
16 man.

17 102.137. Defendants focused on Leontae, a black man, who was doing nothing but
18 scrambling for safety.

19 103.138. Video shows that the Phoenix Defendants did not even look Humberto's
20 way. They just let him run from the scene while unloading their lethal weapons at Leontae.

21 104.139. In Officer Thomas Cuthbertson's Report, he noted that he interviewed
22 Humberto.

23 105.140. The following is what Officer Cuthbertson reported about the interview:
24 Humberto told Officer Cuthbertson:

25 HUMBERTO WANTED TO KNOW WHY WE ARRESTED HIM. I
26 ADVISED HUMBERTO WE HAD NOT ARRESTED HIM, BUT HE HAD
27 BEEN DETAINED. I TOLD HUMBERTO I DID NOT THINK HE WOULD
28 BE ARRESTED, BUT I DID NOT KNOW WHAT HAPPENED AND
NEEDED TO FIND OUT FROM HIM WHAT HAPPENED. I ASKED

1 HUMBERTO WHY HE WAS AT THIS LOCATION. HUMBERTO WAS
 2 THERE TO PURCHASE BEERS FOR A FRIEND OF HIS. HUMBERTO
 3 LIVED NEAR BY, BUT DID NOT KNOW THE ADDRESS. HUMBERTO
 4 NOTED HE LIVED AT NORTH 37TH AVENUE AND WEST GRANADA.

5 HUMBERTO WORKED AS A CARPENTER FOR AN INDIVIDUAL
 6 NAMED "JOSE. I ASKED HUMBERTO ABOUT THE MOTORCYCLE.
 7 HUMBERTO WAS IN THE PROCESS OF REPAIRING THE
 8 MOTORCYCLE FOR A FRIEND NAMED "GUERO" WHO LIVED IN THE
 9 AREA OF 7TH AVENUE AND ROOSEVELT.

10 I ASKED HUMBERTO TO TELL ME WHAT HAPPENED. HUMBERTO
 11 DROVE THE MOTORCYCLE DOWN NORTH 37TH AVENUE AND
 12 HUMBERTO OBSERVED THE SUBJECT (LEONTAE KIRK) WALK OUT
 13 OF THE ALLEY WHILE PUTTING A GUN IN HIS POCKET. HUMBERTO
 14 OBSERVED LEONTAE TALK TO A WHITE FEMALE IN THE ALLEY.
 15 LEONTAE CALLED THE FEMALE A "BITCH". WHILE IN THE STORE
 16 LEONTAE GRABBED SOME BEER FIRST AND ASKED HUMBERTO
 17 "WHAT'S UP". WHILE HUMBERTO WAS WAITING TO PURCHASE
 18 BEER LEONTAE INSULTED HUMBERTO BY TELLING HUMBERTO TO
 19 "SHUT UP" AND SAYING OTHER INSULTING THINGS TO HUMBERTO.
 20 HUMBERTO WENT OUTSIDE AND TRIED TO START THE
 21 MOTORCYCLE AND NOTED THE MOTORCYCLE WOULD NOT START.
 22 HUMBERTO NOTED THE MOTORCYCLE HAD ELECTRICAL
 23 PROBLEMS. HUMBERTO SAW LEONTAE EXIT THE STORE.
 24 HUMBERTO TOOK OUT A BLACK 9MM RUGER HANDGUN WHICH
 25 WAS STOWED IN A COMPARTMENT ON THE MOTORCYCLE. AS
 26 LEONTAE EXITED THE STORE LEONTAE PULLED OUT A GUN,
 27 POINTED THE GUN AT HUMBERTO, AND HUMBERTO BELIEVED
 LEONTAE WAS GOING TO SHOOT HUMBERTO. HUMBERTO PULLED
 OUT THE BLACK 9MM RUGER, POINTED THE GUN AT LEONTAE,
 AND PULLED THE SLIDE BACK ON THE GUN TO SCARE LEONTAE
 OFF. HUMBERTO STATED THE GUN HE HAD DID NOT HAVE
 BULLETS. HUMBERTO NOTED THE GUN DID NOT BELONG TO HIM
 AND HUMBERTO DID NOT KNOW WHO THE GUN BELONGED TO AS
 IT WAS ON THE MOTORCYCLE WHEN HE RETRIEVED IT FROM
 "GUERO".

28 HUMBERTO HID BEHIND A WHITE CAR. HUMBERTO NOTED THE
 29 POLICE ARRIVED AND SHOT AND KILLED LEONTAE.

30 HUMBERTO NOTED LEONTAE SHOT AT LEAST ONE TIME IN AN
 31 UPWARD DIRECTION.

1 WHEN THE SHOOTING OCCURRED, HUMBERTO RAN TO THE ALLEY
 2 AND RAN UP THE ALLEY. HUMBERTO DISCARDED THE GUN IN THE
 3 ALLEY, AS HUMBERTO DID NOT WANT TO HAVE ANY PROBLEMS.
 4 PRIOR TO THE INTERVIEW HUMBERTO SHOWED ME THE LOCATION
 5 WHERE HE DISCARDED THE GUN AND THE GUN WAS NOT
 6 LOCATED.

7 HUMBERTO HAD NEVER SEEN LEONTAE PREVIOUSLY. HUMBERTO
 8 DESCRIBED LEONTAE AS A BLACK MALE, SHORTS, WHITE "CAMISA
 9 DE TIRANTES" (POSSIBLY A TANK TOP). HUMBERTO NOTED
 10 LEONTAE APPEARED TO BE ON DRUGS OR DRUNK.

11 HUMBERTO HAD BEEN ARRESTED PREVIOUSLY FOR A TRAFFIC
 12 VIOLATION. I ASKED HUMBERTO IF HE HAD A FELONY
 13 CONVICTION AND HUMBERTO DID NOT BELIEVE HE HAD A
 14 FELONY.

15 106.141. Humberto lied in his report to Officer Cuthbertson to protect himself.

16 107.142. He was the aggressor.

17 108.143. He pulled his gun on Leontae before Leontae knew what was going on.

18 144. Video footage proves this.

19 109.145. The only reason Leontae pulled his gun from his pocket was because he was
threatened by Humberto with deadly force.

20 110.146. Humberto lied about almost everything he told the police.

21 111.147. He was in possession of a – at the very least – chopped up motorcycle. None
 22 of the VIN numbers matched.

23 112.148. He did not try to start the motorcycle as he claimed.

24 113.149. He claimed Leontae fired his weapon which was 100% false.

25 114.150. Instead, the video shows that Humberto continued to hunt Leontae.

26 115.151. This continued until Humberto apparently saw police vehicles heading their
 27 way.

28 116.152. He ran from the property leaving Leontae hiding and wondering if he was
 going to continue being hunted.

117.153. Ultimately, Leontae was killed by the Phoenix Defendants and Humberto
 walked away without a scratch.

1

2 **Officers on the Ground**

3 118.154. The available video then shows officers arriving.

4 119.155. Without warning, provocation, or otherwise, three Phoenix Police officers –
5 Ladines, Roy, and Garza - began shooting at Leontae.

6 120.156. None of the Phoenix Defendants secured the scene.

7 121.157. None of the Phoenix Defendants intervened – including Ravelo or the
8 Helicopter Officers.³

9 158. Again, by that time, Leontae no longer had a gun in his hand.

10 122.159. Ravelo admits that she saw Leontae unarmed before the shooting started.

11 123.160. He had thrown his gun to the ground to avoid the very fate he suffered at the
hands of the Defendants.

12 124.161. He was defenseless and harmless.

13 125.162. He had his hands up and assumed a surrendering position by beginning to
14 slowly sit with his hands up at all times.

15 126.163. No police officers announced their presence.

16 127.164. No police officers attempted to contact Leontae prior to opening fire on him.

17 128.165. No police officers used less lethal methods until after firing their LETHAL
18 service weapons at Leontae.

19 **Sergeant Roy**

20 129.166. Sergeant Roy is a rank above Officer or Detective. He was a supervisor to
the Officers on-scene. He had heightened duties commensurate to his rank.

21 167. Despite this, Sergeant Roy fired SEVENTEEN bullets at Leontae
immediately upon his arrival on scene.

22 168. Roy is no stranger to using force and being involved in the fatal shootings of
23 suspects.

24

25

26

27 ³ There were other officers on scene who are unknown to Plaintiffs at this time. They all
28 potentially failed to intervene to prevent the grossly negligent and reckless actions of
Officers Garza, Ravelo, and Ladines, and Sergeant Roy.

1 169. In April 2013, he shot and killed a suspect with a shotgun.

2 170. In April 2018, he “deployed his rifle”, was “able to shoot at the suspect”, and
 3 “ended the threat”.

4 130.171. In August 2018, he shot a suspect seven (7) times resulting in the suspect’s
 5 death.

6 131.172. Officer Ladines and Garza fired no less than seven (7) bullets at Leontae.

7 132.173. The Incident Report details twenty-five (25) separate casings from Phoenix
 8 Police service weapons were found strewn about.

9 133.174. Body cam footage was obtained for all officers that fired their weapons.

10 134.175. Sergeant Roy’s Body Cam Footage shows that within thirty-one (31) seconds
 11 – and without announcing his presence, he fired his entire seventeen (17) bullet clip into
 12 Leontae from a position directly to Leontae’s right side down a sidewalk of a busy business
 13 strip mall.

14 135.176. The footage shows that Sergeant Roy did nothing to assess the situation; did
 15 nothing to secure the scene to prevent danger to civilians; clearly could see that Leontae
 16 was not holding a weapon; clearly could see Leontae was falling backwards from already
 17 being shot; and, despite these facts, recklessly and with conscious disregard to the safety
 18 of civilians, including Leontae, fired his entire 17 bullet clip without pause.

19 136.177. The scene was wildly busy.

20 137.178. There were civilians entering and exiting businesses within minutes of Roy’s
 21 actions.

22 138.179. At two minutes and 25 seconds of Roy’s body cam footage a School Bus
 23 drives by the scene.

24 139.180. At two minutes and 59 seconds, a patron exits the liquor store.

25 140.181. Again, Sergeant Roy took no steps to secure the scene before firing and was
 26 by all means lucky nobody exited the liquor store at 31 seconds when he began firing his
 27 service weapon.

28 141.182. According to Detective Interviews of Sergeant Roy, he stated:

SERGEANT ROY COULD SEE THE SUBJECT IN THE PARKING LOT,
 NEAR THE BACK OF A SILVER TRUCK (DODGE RAM). THE SUBJECT

1 WAS FACING AWAY FROM SERGEANT ROY, HOWEVER SERGEANT
 2 ROY COULD SEE A GUN IN HIS RIGHT HAND, BEING POINTED IN A
 3 NORTHEAST DIRECTION TOWARDS THE BARBER SHOP AND
 4 LIQUOR STORE. SERGEANT ROY COULD NOT SEE IF THE SUBJECT
 5 WAS FIRING THE WEAPON.

6 SERGEANT ROY KNEW OFFICERS WERE TO THE SOUTH OF THE
 7 SUBJECT. SERGEANT ROY BELIEVED THE OFFICERS HAD
 8 “CHALLENGED” THE SUBJECT BECAUSE HE RAN NORTH, BETWEEN
 9 THE TRUCK AND VOLKSWAGEN, TOWARDS THE CELLULAR STORE.
 10 SERGEANT ROY RAN NORTH TO THE SIDEWALK THAT RUNS EAST
 11 AND WEST IN FRONT OF THE BUSINESS COMPLEX.

12 AS SERGEANT ROY REACHED THE SIDEWALK (JUST EAST OF 37TH
 13 DRIVE), HE SAW THE SUBJECT EMERGE FROM BETWEEN THE TWO
 14 VEHICLES. THE SUBJECT “CROUCHED DOWN” AND TURNED
 15 TOWARDS THE OFFICERS (TO THE SOUTH). SERGEANT ROY
 16 BELIEVED THE SUBJECT WAS GETTING INTO A POSITION TO
 17 ENGAGE THE OFFICERS IN A “GUNFIGHT”.

18 SERGEANT ROY COULD NOT SEE THE GUN BUT HIS BODY
 19 LANGUAGE AND POSITIONING MADE SERGEANT ROY BELIEVE HE
 20 WAS STILL ARMED WITH THE GUN.

21 SERGEANT ROY FEARED FOR THE SAFETY OF THE OFFICERS AND
 22 FIRED HIS HANDGUN AT THE SUBJECT.

23 SERGEANT ROY FIRED HIS WEAPON UNTIL THE SUBJECT WAS NO
 24 LONGER IN A POSITION TO BE A THREAT. AT THIS POINT, THE
 25 SUBJECT WAS ON THE GROUND. SERGEANT ROY DID NOT KNOW
 26 AT THE TIME HOW MANY ROUNDS HE HAD FIRED. SERGEANT ROY
 27 DID A “TACTICAL EXCHANGE” AND LATER LOOKED AT HIS
 28 MAGAZINE AND DISCOVERED HE HAD FIRED 17 ROUNDS.

29 SERGEANT ROY SAW A TEAM BEING DEVELOPED TO APPROACH
 30 THE SUBJECT. SERGEANT ROY RETRIEVED THE SHIELD FROM HIS
 31 PATROL VEHICLE, JOINED THE TEAM, AND EVENTUALLY THEY
 32 MOVED UP TO THE SUBJECT.

33 SERGEANT ROY EXPLAINED WHEN HE FIRED HIS WEAPON, HE DID
 34 NOT SEE ANY CIVILIANS IN THE AREA. HIS BACKDROP WAS
 35 DESCRIBED AS BEING THE SUBJECT.

36 SERGEANT ROY DID NOT HEAR ANY OTHER GUNFIRE BESIDES HIS.

1 142.183. It appears that Roy was not upset by his actions.

2 143.184. In fact, on his body cam footage it shows that he was bouncing around
3 gleefully following his participation in the killing of Leontae.

4 144.185. He can be heard on his bodycam footage stating that he has calmed down and
5 displays his hands to the camera and then begins laughing.

6 145.186. This is less than 10 minutes following the killing of Leontae.

7 146.187. The remaining Phoenix Defendants and other officers did nothing to
8 intervene.

9 147.188. Not a single officer paused for reflection.

10 148.189. Not a single Phoenix Defendant or officer put their foot down to establish
11 proper assessment procedures and prevent the death of an innocent civilian, Leontae.

12 149.190. Not a single Phoenix Defendant or officer made any attempt – verbal or
13 physical – to de-escalate and prevent their fellow officers from engaging in the most
14 reprehensible and reckless activity possible.

15 150.191. Bystanders were everywhere.

16 151.192. According to police reports, a 13-year-old⁴ was found in the back of a Dodge
17 Ram pickup truck mere feet from the gunshots – and had been there the entire time of the
18 Incident.

19 152.193. Diana Concepcion Flores Ochoa was the driver of the Dodge Ram.

20 153.194. According to Police Reports and her interview, she was also inside the Ram
21 during the Incident.

22 154.195. She saw Leontae run out of the Convenience Store but did not see anyone
23 with a gun.

24 155.196. While the Phoenix Defendants were firing their weapons recklessly and with
25 wanton disregard to the safety of civilians and property, multiple businesses' store fronts
26 ended up with gunshots hitting their windows and walls.

27

28 ⁴ Upon information and belief this is inaccurate information. It appears that this civilian
stated in Spanish that she was in her twenties according to video footage obtained.

1 156.197. Multiple vehicles were also struck by gunshots fired by the Defendants.

2 157.198. According to Police Reports:

3 THERE WAS AN APPARENT BULLET STRIKE (LABELLED "A") TO A
 4 SOUTH FACING WINDOW OF THE GRAND STOP TWO BUSINESS. THE
 5 INTERIOR SIDE OF THE WINDOW WAS LABELLED "A1". THERE WAS
 6 AN APPARENT BULLET STRIKE (LABELLED "A2") TO THE INTERIOR
 MIRRORS MOUNTED ON THE EAST WALL. THE PROJECTILE WAS
 UNABLE TO BE RECOVERED.

7 THERE WERE TWO (2) APPARENT BULLET STRIKES (LABELLED "B"
 8 AND "C") ON THE EXTERIOR SOUTH FACING WALL OF JR'S
 CELLULAR, NEAR THE DECEDENT.

9 THERE WAS ONE (1) APPARENT BULLET STRIKE (LABELLED "D") ON
 10 THE LEFT REAR QUARTER PANEL OF THE GOLD HONDA PILOT,
 PARKED FACING NORTH TOWARD BUILDING (SPACE 9). ONE (1)
 PROJECTILE (ITEM 42) WAS LOCATED IN THE REAR CARGO AREA
 OF THE GOLD HONDA PILOT, PARKED FACING NORTH TOWARD
 BUILDING (SPACE 9)

11 THERE WERE POSSIBLE BULLET STRIKES (LABELLED "E", "F", AND
 12 "G") ON THE REAR BUMPER TO THE PARKED GRAY VOLKSWAGEN
 13 JETTA, PARKED FACING NORTH TOWARD BUILDING (SPACE 10).

14 158.199. The Defendants displayed a conscious and reckless disregard to not only
 15 Leontae's rights and life, but they endangered civilians, business owners, patrons, property,
 16 children, and anyone who found themselves unlucky enough to be in the vicinity.

17 **Officer Ladines**

18 159.200. According to Ladines, she was riding with Ravelo in response to a
 "SUBJECT WITH A GUN" call.

19 160.201. She heard the helicopter dispatch call that there was an active shooter.

20 161.202. Ladines – in contravention to the video evidence – claimed that Leontae was
 holding his gun "GANGSTER STYLE."

21 162.203. Ladines claims she heard shots from Leontae – even adding detail that he had
 the gun in his hand and it was moving up and down as he fired.

22 163.204. Again, video evidence proves this to be demonstrably false.

23 164.205. She claimed that Leontae was shooting to the North and the East.

1 165.206. Ladines saw pedestrians walking nearby.

2 166.207. It is important to note that she only saw them “walking” and not running or
3 screaming in fear for their lives because a purported gun battle was occurring.

4 167.208. Additionally, as seen in body cam footage and corroborated by Officer
5 Ravelo in her investigation interview with Detective Shuck, “THERE WAS AN
6 UNIDENTIFIED PERSON AT THE BUS STOP WHO QUICKLY WALKED AWAY
7 AFTER BEING ASKED TO DO SO BY OFFICER RAVELO.”

8 168.209. The bus stop was directly in front of the Incident.

9 169.210. Pedestrians were unconcerned.

10 170.211. No weapon was fired by Leontae or anyone else – and the Defendants knew
it.

11 171.212. The Defendants had all the information they needed to know this was
decidedly not an active shooter situation.

12 172.213. They deliberately and consciously disregarded the information that was
readily available to them. They then killed Leontae.

13 173.214. According to police reports in response to an interview by detectives,
14 “OFFICER LADINES TOLD ME THE SUBJECT WAS "ACTIVELY SHOOTING IN
15 THE DIRECTION OF AN OCCUPIED BUILDING COMMITTING AGGRAVATED
16 ASSAULT".

17 174.215. Ladines claimed that Leontae had fired between three (3) and five (5) bullets.

18 175.216. ~~In a complete lack of clarity,~~ Ladines “THOUGHT” she told the subject to
stop.

19 176.217. Video shows she did not – until after Leontae lie bleeding on the concrete.

20 177.218. Ladines fired her weapon multiple times into Leontae. She believes she shot
five (5) times.

21 178.219. Ladines then moved closer to Leontae – who was dying on the concrete with
no weapon and claims to have heard him firing more bullets.

22 179.220. Only after Ladines moved to Garza’s position did she see that Leontae was
slumped against the wall on the concrete.

1 180.221. She claims that Leontae was raising his hands up and down and moving
 2 around.

3 181.222. He had his hands up in a surrendering body position.

4 182.223. At this point, the Phoenix Defendants began shouting commands for Leontae
 5 to drop his gun over and over – even though all of the Phoenix Defendants could plainly
 6 see Leontae had no weapon.

7 183.224. Ladines claims that Leontae was not complying.

8 184.225. Concerningly, Ladines then retrieved a non-lethal weapon and fired a 40mm
 9 canister into Leontae.

10 185.226. No force was necessary, but if any force should have been used, it would
 11 have been Non-lethal force – instead of firing a hail of bullets at and into Leontae.

12 186.227. Instead, Roy, Ladines, and Garza used their lethal firearms without
 13 performing any assessment; without announcing; without using de-escalation
 14 techniques; and without even securing the scene.

15 187.228. Ladines and Ravelo quickly concocted a story that Leontae's gun was
 16 underneath him as they clearly could not see a weapon.

17 188.229. Ladines claims then that additional officers arrived with their shields.

18 189.230. Ballistic shields should have been used before lethal force.

19 190.231. Only after waiting anywhere between six and ten minutes, did officers
 20 approach Leontae to provide medical care.

21 191.232. Ladines' and Ravelo's story about the gun being underneath Leontae fell
 22 apart in a matter of seconds.

23 192.233. The gun was found underneath a vehicle.

24 193.234. It was at this point that Ladines realized that a 13-year-old girl was in a
 25 vehicle mere feet from the location of Leontae's dying body.

26 194.235. Ladines doubled-down towards the end of her interview and told the
 27 investigator that she fired her weapon because Leontae was actively firing his weapon in
 28 public and she wanted to protect civilians and other officers.

29 195.236. She also stated she did not see other officers firing weapons.

Officer Ravelo

196.237. In Ravelo's investigation, she stated that "OFFICER LADINES REMOVED HER 40MM GUN, DESIGNED FOR "LESS LETHAL USE," FROM THEIR PATROL CAR'S REAR CARGO AREA AND PLACED THE WEAPON IN THE PASSENGER COMPARTMENT WITH OFFICER RAVELO BEFORE RESPONDING TO THE EMERGENCY RADIO CALL."

197.238. Ladines knew she could use less lethal force and she deliberately chose otherwise.

239. Furthermore, Ravelo told Detective Shuck that she "WAS UNSURE IF LEONTAE WAS THE SUBJECT OF THEIR CALL, AS HE DID NOT MATCH THE DESCRIPTION, ***AND SHE DID NOT SEE LEONTAE WITH A WEAPON.*** OFFICER RAVELO CONTINUED LOOKING AROUND FOR A HISPANIC MALE IN THE RED HOODED SWEATSHIRT."

(emphasis added)

198.240. Ravelo also told Detective Shuck that she "DID NOT SEE ANYONE WITH A FIREARM OTHER THAN THE POLICE, SO SHE DID NOT DISCHARGE HER WEAPON. OFFICER RAVELO RECALLED HEARING APPROXIMATELY TEN GUNSHOTS BUT NOTED THAT OFFICERS SEEMED TO BE FIRING SIMULTANEOUSLY. AFTER THE GUNFIRE ENDED, LEONTAE WAS DOWN ON THE GROUND, LYING ON HIS BACK WITH HIS HANDS DOWN BY HIS SIDES IN THE SAME VICINITY WHERE OFFICER RAVELO INITIALLY OBSERVED HIM."

241. Ravelo had time enough to note that she was unsure if Leontae was the suspect because he did not match the description *and* had enough time to note that Leontae was not holding a weapon – time enough to decide not to discharge her weapon.

242. It follows that she had enough time to tell her fellow officers not to shoot.

243. Since her partner, Ladines, was running with her, Ravelo knew that Ladines had her firearm in her hands pointing at Leontae.

244 Ladines kicked off the shooting

²⁴⁵ Had she not, it is likely this death could have been prevented

246. Had Ravelo told her partner the things she was seeing, and had Ravelo told Ladines to stand down, Leontae would still be alive.

199.247. Officer Ravelo did nothing to stop the actions of her fellow officers.

200.248. Officer Ravelo's statements to Detective Shuck directly contradict Officer Garza's, Officer Ladines', and Sergeant Roy's statements that Leontae had a weapon in his hands.

Officer Garza

201.249. According to Detective Interviews of Officer Garza following the incident, the following was stated:

WHEN OFFICER GARZA ARRIVED, HE PARKED ON McDOWELL ROAD, FACING EAST, ON THE NORTH SIDE OF McDOWELL. HIS VEHICLE WAS IDENTIFIED AS VEHICLE #111739 (STILL PRESENT). OFFICER GARZA SAW THE SUBJECT IN THE PARKING LOT, SOUTH OF THE VEHICLES AND WEST OF THE BOOST MOBILE BUSINESS, POINTING A HANDGUN "AT PEOPLE IN FRONT OF THE BUSINESS".

OFFICER GARZA DESCRIBED THE SUBJECT AS SHOOTING THE HANDGUN IN A NORTHEAST DIRECTION

OFFICER GARZA INDICATED HE DID NOT SEE CIVILIANS, BUT KNEW IT WAS "BUSY" DUE TO THE TIME OF DAY

OFFICER GARZA BELIEVED THE SUBJECT FIRED HIS GUN ONE OR TWO TIMES. OFFICER GARZA DESCRIBED THE SUBJECT'S GUN AS A BLACK HANDGUN

OFFICER GARZA RETRIEVED HIS RIFLE AND EXITED HIS PATROL VEHICLE. AS HE DID THIS, HE HEARD GUNFIRE.

OFFICER GARZA ASSUMED IT WAS AN OFFICER BECAUSE IT WAS COMING FROM HIS LEFT AND KNEW THE SUBJECT WAS NOT AT THAT LOCATION

OFFICER GARZA SAW THE SUBJECT RUN TO THE FRONT OF THE PARKED VEHICLES TOWARDS THE BUSINESSES.

OFFICER GARZA RAN EAST DOWN THE SIDEWALK AS HE
WANTED TO KEEP THE SUBJECT FROM ENTERING ANY OF THE

1 BUSINESSES. OFFICER GARZA STOPPED JUST SOUTH OF THE
2 SHORT PONY WALL, EAST OF THE BUS STOP.

3 OFFICER GARZA COULD SEE THE SUBJECT RUNNING FROM
4 OTHER OFFICERS. OFFICER GARZA FIRED HIS WEAPON AT THE
5 SUBJECT AS HE (SUBJECT) WAS NEAR THE BOOST MOBILE, NEAR
6 THE FRONT OF A SILVER DODGE RAM TRUCK. OFFICER GARZA
7 FIRED THREE TIMES AND BELIEVED HE HIT THE SUBJECT ALL
8 THREE TIMES.

9 OFFICER GARZA WAS AIMING “CENTER MASS”. OFFICER GARZA
10 UTILIZED THE SCOPE THAT WAS ATTACHED TO HIS RIFLE.

11 AFTER, THE SUBJECT FELL TO THE GROUND. OFFICERS WERE
12 GIVING COMMANDS FOR THE SUBJECT TO SHOW HIS HANDS.
13 BECAUSE OF THE SUBJECT’S POSITIONING, OFFICERS COULD
14 NOT SEE THE SUBJECT’S HANDS AND DID NOT KNOW WHERE
15 THE GUN WAS.

16 OFFICER GARZA TOLD OFFICER LADINES TO RETRIEVE HER
17 “LAUNCHER” (40MM). ONCE SHE RETURNED, OFFICER LADINES
18 FIRED ONE ROUND BUT THE SUBJECT DID NOT RESPOND.

19 AFTER THE SHOOTING OCCURRED, OFFICER GARZA SAW
20 NUMEROUS PEOPLE EXIT THE BUSINESSES.

21 202.250. Garza claimed that he actually saw Leontae fire his weapon multiple times
22 despite the evidence that Leontae never fired a bullet.

23 203.251. Officer Garza had a scope on his AR-15 Daniel Defense rifle.

24 204.252. Officer Garza used that scope.

25 205.253. Officer Garza could clearly see that Leontae had no weapon.

26 206.254. Yet, Officer Garza fired three shots “CENTER MASS” and believed that all
27 three shots hit Leontae.

28 207.255. Officer Garza had the choice to use non-lethal measures.

29 208.256. He had a scope to view Leontae through.

30 209.257. He clearly did not see Leontae holding a weapon – because Leontae was not
31 holding a weapon.

32 210.258. Of note, Garza stated that Leontae was near the front of the silver Dodge

1 Ram.

2 211.259. Again, there were people inside the Dodge Ram.

3 212.260. Garza did not even clear the area of civilians before he helped kill Leontae
4 by firing his lethal weapon.

5 **Autopsies and Weapons Used**

6 213.261. The following is taken from the Autopsy information reported in the Police
7 Reports:

8 DATE OF AUTOPSY: FRIDAY, NOVEMBER 4, 2022

9 OME CASE NUMBER: 2022-11285

10 DECEASED: LEONTAE KAAMEECH KIRK

11 PATHOLOGIST: DOCTOR CROSS

12 CAUSE OF DEATH: MULTIPLE GUNSHOT WOUNDS

13 MANNER OF DEATH: HOMICIDE

14 214.262. The Police Autopsy describes seventeen (17) projectiles removed from
Leontae's body during examination:

- 15 - PROJECTILE; FROM LEFT MID BACK
- 16 - PROJECTILE; FROM RIGHT WRIST
- 17 - PROJECTILE; FROM LEFT HAND
- 18 - PROJECTILE; FROM RIGHT KNEE
- 19 - PROJECTILE; FROM LEFT CHEST WELL
- 20 - PROJECTILE; FROM LEFT INTERCOSTAL SPACE
- 21 - PROJECTILE; FROM POSTERIOR LEFT ABDOMEN
- 22 - PROJECTILE; FROM RIGHT PELVIS
- 23 - PROJECTILE; FROM LEFT PELVIS
- 24 - PROJECTILE; FROM LEFT 11TH RIB
- 25 - PROJECTILE; FROM LEFT BUTTOCK
- 26 - PROJECTILE; FRAGMENTS FROM RIGHT THIGH
- 27 - PROJECTILE; FRAGMENT FROM LEFT PERIRENAL TISSUE
- 28 - PROJECTILE; FRAGMENT FROM RIGHT LUNG
- 29 - PROJECTILE; FRAGMENTS, MISC
- 30 - OTHER; BLUE FRAGMENT FROM RIGHT ABDOMEN
- 31 - OTHER; METAL FRAGMENT FROM PUBIS

32 215.263. A private autopsy was also performed. Similar results were found – except
33 that the private autopsy found nineteen (19) bullet wounds. Both autopsy reports list cause
34

1 of death as Homicide.

2 216.264. The types of weapons used included a Daniel Defense 5.56 Caliber AR-15
3 Rifle by Officer Garza.

4 217.265. These types of rifles cause cavitation. This means that instead of a bullet
5 passing straight through, it creates a cavity in the body. The high velocity of the weapon
6 also liquifies organs.

7 218.266. Officer Ladines used her 9MM Glock.

8 219.267. Sergeant Roy used his 9MM Glock.

9 220.268. Three Projectiles were recovered from the parking lot south of Jorge's
10 Barbershop, the ground underneath a silver 2005 Honda Lx, and the rear cargo area of a
11 gold 2003 Honda Pilot.

12 221.269. A black projectile (.40 caliber) was recovered in a parking space south of
13 JR's Cellular.

14 222.270. Seventeen bullet casings from a WIN 9MM Luger were recovered on the
15 ground and the sidewalk on the northwest corner of the parking lot.

16 223.271. Four bullet casings from a WIN 9MM Luger were found in the roadway
17 south of businesses and in the rocks south of businesses.

18 224.272. Another bullet casing was found from an EXT SH 223 REM in the rocks on
19 the east side of North 37th Drive.

20 225.273. Three other bullet casings from an FC 223 REM were found in the parking
21 lot south of Jorge's Barber Shop / Beauty Salon.

22 226.274. A cartridge from an FC 223 REM was found in the rocks south of the
23 businesses.

THE AFTERMATH

24 227.275. In spite of the Phoenix Defendants' unreasonable, misleading, malicious,
25 unlawful conduct on November 2, 2022, and their alarmingly inaccurate account of the
26 events surrounding Leontae's death, upon information and belief, all of the Phoenix
27 Defendants remain employed at the Phoenix Police Department.

28 228.276. Upon information and belief, the City and the Phoenix Police Department

1 failed to place any of the officers involved in the killing of Leontae on disciplinary leave
 2 and it is unknown if any of them received any kind of disciplinary action at all.

3 229.277. The Phoenix Police Department's, Sullivan's, and the City's deliberate
 4 decision to keep all three officers employed is just another glaring example of their
 5 indifference towards officers' unlawful use of deadly force.

6 230.278. In fact, upon information and belief, the City, Sullivan, and the Phoenix
 7 Defendants acted swiftly to try and cover up what actually happened.

8 231.279. On the body cam footage obtained, it was only after the Phoenix Defendants
 9 shot Leontae nineteen (19) times – not including the bullets that missed Leontae and put
 10 other civilians and business in danger – that the Phoenix Defendants began yelling at
 11 Leontae to “drop the gun” repeatedly.

12 232.280. Leontae did not have a gun.

13 233.281. The Phoenix Defendants then began frantically asking each other where the
 14 gun was.

15 234.282. The Phoenix Defendants continue frantically telling each other that they
 16 cannot see a gun.

17 235.283. They concoct quick stories that the gun must be underneath his body.

18 236.284. They continue to yell at him to put his hands up, but he was already
 19 unconscious.

20 237.285. On Ladines' body cam footage she can be heard saying “Hey where's the
 21 gun?”, and “I'm not seeing anything”.

22 238.286. Later on the same footage, while Leontae lied upon the ground dying,
 23 officers can be heard stating “Where's the fire department? No clue – maybe these
 24 barricades are too good” and then laughter all around is heard.

25 239.287. On the same day that Leontae was wrongfully killed, the Phoenix Police
 26 Department issued a statement that said in its entirety:

27 Phoenix police detectives are investigating an officer involved shooting that
 28 left one man dead. Officers were dispatched to a subject with a gun call in
 the area of 37th Drive and McDowell Road.

29 The caller told the 911 operator that a man was armed with a gun and was

1 pointing it at him.

2 When the officers got there, they found multiple people with guns in the
 3 parking lot of a strip mall. ***The officers saw one of the men shooting his gun
 at others and this was when the officer involved shooting occurred.***

4 After the shooting, officers moved up and used a less-lethal tool in order to
 5 encourage the suspect to show his hands. After no response, the officers
 6 moved up and provided aide until the fire department arrived. The suspect
 7 was pronounced deceased on scene. A gun was located near the suspect.

8 Homicide detectives responded and are currently on scene and investigating
 9 the shooting. The investigation remains active. There were no injuries to
 officers or other community members.

10 Phoenix Police Department Media Advisory, Incident # 2022-1649049.
 11 (emphasis added).

12 240.288. The City and Phoenix Defendants knew that Leontae had not fired his
 13 weapon.

14 241.289. They knew that his weapon was found under a vehicle.

15 290. The City, Sullivan, and the Phoenix Defendants deliberately lied to the public
 16 in an attempt to save face knowing full well that they had wrongfully killed Leontae.

17 291. On December 4, 2023, the Professional Standards Bureau (“PSB”) issued an
 18 internal investigation report to Chief Sullivan.

19 292. The findings never once mention that Leontae did not fire his weapon ever.

20 293. Instead, the findings specifically state that the Helicopter Officers, Garza,
Roy, and Ladines all saw Leontae physically fire his handgun multiple times at some of
the storefronts and at other people.

21 294. The findings specifically state that the reason that Roy, Garza, and Ladines
fired their weapons at Leontae was because they saw Leontae fire his weapon.

22 295. Furthermore – and disturbingly – the findings dictate that Leontae was the
aggressor against Humberto.

23 296. The findings state that this was corroborated by criminal investigators.

24 297. This is a total and complete fabrication.

298. Video evidence shows that Humberto was waiting for Leontae with his gun out while sitting on a motorcycle.

299. When Leontae exited the convenience store, he saw Humberto pointing his gun at him.

300. As discussed herein, Leontae then reacted, running away while fumbling to get his gun out of his pocket to display in a defensive manner.

301. This Internal Investigation was completed after this complaint was originally filed.

302. All the evidence that Plaintiffs had were also in the possession of the City of Phoenix Police Department.

242.

243.303. The Phoenix Defendants acted maliciously, recklessly, and with an extreme indifference to the value of human life, causing the wrongful death of Leontae.

244.304. Despite this, the City, Sullivan, and the Phoenix Police Department have made the conscious decision to keep all three officers employed within positions where they will continually have contact with the citizens of Phoenix, Arizona.

245.305. The only explanation for a willful decision of this disturbing nature is that both the Phoenix Police Department, the City, and Sullivan are acting with blatant disregard towards the constitutional rights of citizens and the sanctity of their lives.

COUNT I

WRONGFUL DEATH AND SURVIVAL ACTION PURSUANT TO A.R.S § 12-

611, *et seq.* and A.R.S. § 14-3110

(All Defendants)

246.306. Plaintiffs incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

247.307. A.R.S. § 12-611, *et seq.* provides that “When death of a person is caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action to recover damages in

1 respect thereof, then, and in every such case, the person who or the corporation which
 2 would have been liable if death had not ensued shall be liable to an action for damages,
 3 notwithstanding the death of the person injured, and although the death was caused under
 4 such circumstances as amount in law to murder in the first or second degree or
 5 manslaughter.”

6 248.308. A.R.S. § 14-3110 provides that “Every cause of action, except a cause of
 7 action for damages for breach of promise to marry, seduction, libel, slander, separate
 8 maintenance, alimony, loss of consortium or invasion of the right of privacy, shall survive
 9 the death of the person entitled thereto or liable therefor, and may be asserted by or against
 10 the personal representative of such person, provided that upon the death of the person
 11 injured, damages for pain and suffering of such injured person shall not be allowed.”

12 249.309. Kashane Kirk is the personal representative of the Estate and has the
 13 authority to bring a survival action.

14 250.310. Sharon Roberts is the mother of Leontae and has the right under Arizona law
 15 to bring a wrongful death action on behalf of all statutory beneficiaries including MC.

16 251.311. Phoenix Defendants caused the wrongful death of Leontae by their unlawful
 17 act of shooting Leontae nineteen (19) times, and by their failure to intercede in violation of
 18 their duties.

19 252.312. Additionally, the City is vicariously liable for the acts and omissions of their
 20 employees, including without limitation those employees listed herein as the Phoenix
 21 Defendants.

22 253.313. As a direct and proximate result of the unlawful, reckless, and grossly
 23 negligent actions of the Phoenix Defendants, Leontae suffered an untimely and preventable
 24 death and lost the ability to provide for his daughter and mother.

25 254.314. As a direct and proximate result, Leontae’s mother and daughter have been
 26 deprived of the continued companionship and society of their son and father, and have
 27 suffered and continue to suffer the loss of a loved one, affection, companionship, care,
 28 protection, guidance, as well as pain, grief, sorrow, anguish, stress, shock, mental suffering,
 and have suffered both economic and non-economic damages in an amount to be proven

1 at trial.

2 255.315. Additionally, the acts of Defendants and their employees and agents, as set
 3 forth above, demonstrate gross and wanton negligence in that each of them knew or had
 4 reason to know that their acts individually and collectively created an unreasonable risk of
 5 bodily harm to Leontae and a high probability that substantial harm would result.

6 ~~256. In causing the painful, barbaric and premature death of Leontae, Defendants
 and their employees and agents acted with an evil mind and a malignant heart warranting
 an award of punitive damages.~~

7 **COUNT II**

8 **EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH
 9 AMENDMENTS AND 42 U.S.C. § 1983**

10 (~~Phoenix Defendants~~Ladines, Garza, and Roy)

11 257.316. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
 12 fully set forth herein.

13 258.317. 42 U.S.C. § 1983 provides individuals with a cause of action to sue for
 14 violations of his or her constitutional rights. The 14th Amendment protects individuals
 15 from constitutional violations of State and local authorities. As incorporated by the 14th
 16 Amendment, the 4th Amendment protects individuals from the use of excessive force by
 17 law enforcement officers. ~~These~~ Defendants, while acting in their official capacity and
 18 individual capacities and under the color of law, violated Leontae Kirk's rights to freedom
 19 from unreasonable seizures.

20 259.318. ~~These Phoenix~~ Defendants acted willfully, knowingly, and with specific
 21 intent to deprive Leontae of his rights under the Fourth Amendment of the United States
 22 Constitution, including his right to be secure in his person and free from the use of
 23 unreasonable force and seizure.

24 260.319. ~~These Phoenix~~ Defendants acted unreasonably by using unnecessary deadly
 25 forced as described herein.

26 261.320. Leontae was not resisting arrest.

27 262.321. Leontae was unarmed.

263.322. Leontae was holding his hands up and began to sit down in a surrendering position.

264.323. Despite the clear evidence that Leontae was unarmed, not resisting arrest, and was surrendering with his hands in the air, Defendants Garza, Roy, and Ladines used lethal force which was objectively unreasonable under the totality of the circumstances.

265.324. Ramirez, Ravelo, and Howard failed to intercede or intervene to prevent their fellow officers from using unwarranted, reckless force with wanton disregard to the preservation of life.

266.325. Leontae's death was the direct result of these ~~Phoenix~~ Defendants' actions and inactions.

267.326. Additionally, the acts of these Defendants and their employees and agents, as set forth above, demonstrate gross and wanton negligence in that each of them knew or had reason to know that their acts individually and collectively created an unreasonable risk of bodily harm to Leontae and a high probability that substantial harm would result.

327. In causing the painful, barbaric and premature death of Leontae, these Defendants and their employees and agents acted with an evil mind and a malignant heart warranting an award of punitive damages.

COUNT III

EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH

AMENDMENTS AND 42 U.S.C. § 1983 – *Monell* - POLICY

(City: Sullivan)

268.328. Plaintiff incorporates by reference all previous allegations as fully set forth herein.

269.329. As previously explained, U.S.C. § 1983 provides individuals with a cause of action to sue for violations of their constitutional rights.

270.330. Defendant City and Defendant Sullivan's acts or failure to act deprived

1 Leontae of his constitutional rights.

2 271.331. The City has for years established and implemented policies and procedures
 3 that created a pattern and practice in the Phoenix Police Department that consistently acts
 4 with wanton disregard for the rights of individuals and the sanctity of human life.

5 272.332. Despite the Phoenix Police Department's and the City's ministrations, de-
 6 escalation techniques are upon information and belief rarely used and the wrongful use of
 7 deadly force has become the norm.

8 273.333. The City and Sullivan provide little transparency to the investigation and
 9 discipline – if any – of its officers and agents.

10 274.334. The City and Sullivan release edited or redacted versions of evidence which
 11 limit or hide information that should be released.

12 275.335. If de-escalation was truly a priority, Leontae would still be alive today.

13 276.336. The policies and procedures in place have failed and established a police
 14 force that has consistently acted with blatant disregard to Leontae's constitutional rights
 15 and extreme indifference to the value of his life.

16 277.337. The Phoenix Police Department has consistently failed to adequately
 17 discipline their officers who engage in unlawful conduct, ultimately creating a culture in
 18 which use of excessive force and unreasonable use of deadly force is commonplace.

19 278.338. Therefore, the formal policy adopted by Defendant City and Defendant
 20 Sullivan, lead their officers to deliberately follow their rules and regulations, resulting in
 21 Leontae's wrongful death.

COUNT IV

EXCESSIVE FORCE IN VIOLATION OF THE FOURTH AND FOURTEENTH 22 AMENDMENTS AND 42 U.S.C. § 1983 – *Monell* – CUSTOM AND PRACTICE

23 *(City; Sullivan)*

24 279.339. Plaintiff incorporates by reference all previous allegations as fully set forth
 25 herein.

26 280.340. As previously explained, U.S.C. § 1983 provides individuals with a cause of
 27 action to sue for violations of their constitutional rights.

1 281.341. Defendant City and Defendant Sullivan's acts or failure to act deprived
 2 Leontae of his constitutional rights.

3 282.342. As described herein, the City and the Phoenix Police Department through
 4 Defendant Sullivan and his predecessors has for years created a legacy of using deadly and
 5 unlawful force against the citizens of Phoenix, Arizon.

6 283.343. The City, the Phoenix Police Department, and Defendant Sullivan as well as
 7 his predecessors has for years acted pursuant to their customs and practices in the use of
 8 deadly force, which is an expressly adopted official policy or custom within the Phoenix
 9 Police Department.

10 284.344. Operation Orders advise officers on the use of de-escalation techniques in
 11 situations where objectively no lethal force is warranted.

12 285.345. The City and Sullivan were aware of the Phoenix Police Department's
 13 history of Chiefs claiming that new de-escalation policies or use of force policies had been
 14 established.

15 286.346. The statistics show otherwise.

16 287.347. Instead, the customs and practices of the City, the Phoenix Police
 17 Department, and Sullivan show that the de-escalation and use of non-lethal force is not
 18 enforced through written policy but established and ratified by custom and practice.

19 288.348. Despite the Phoenix Police Department's and the City's ministrations, de-
 20 escalation techniques are upon information and belief rarely used and the wrongful use of
 21 deadly force has become the norm.

22 289.349. If de-escalation was truly a priority, Leontae would still be alive today.

23 290.350. The policies and procedures in place have failed and established a police
 24 force that has consistently acted with blatant disregard to Leontae's constitutional rights
 25 and extreme indifference to the value of his life.

26 291.351. It is unquestionable that there is a systemic failure by the City, the Phoenix
 27 Police Department, and Sullivan that have allowed, supported, and established the
 28 commonplace use of lethal force violative of the rights of the citizens of Phoenix, Arizona.

29 292.352. Therefore, the established customs and practices led directly to the death of

1 Leontae.

2 293.353. The City and Sullivan are liable for Leontae's death due to its established
 3 customs, patterns, and practices.

4

5 **COUNT V**

6 **DUTY AND FAILURE TO INTERVENE**

7 *(Phoenix Defendants)*

8 294.354. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
 9 fully set forth herein.

10 295.355. “[P]olice officers have a duty to intercede when their fellow officers violate
 11 the constitutional rights of a suspect or other citizen.” Cunningham, 229 F.3d at 1289
 12 (quotations omitted) (quoting United States v. Koon, 34 F.3d 1416, 1447, n.25 (9th Cir.
 13 1994)). “Importantly, however, officers can be held liable for failing to intercede only if
 14 they had an opportunity to intercede.” Id. (citation omitted).

15 296.356. Law enforcement officers who have a realistic opportunity to prevent a
 16 fellow officer from violating a citizen's Constitutional rights have a duty to intervene to
 17 protect the victim from the unconstitutional retaliation, use of force or violation of due
 18 process of law.

19 297.357. As set forth herein, at no time did any of the Phoenix Defendants make any
 20 affirmative step to intervene to protect Plaintiffs' Constitutional rights.

21 298.358. The acts and/or omissions of Phoenix Defendants were willful, wanton,
 22 reckless, malicious, oppressive and/or done with a conscious or reckless disregard for the
 23 rights of Plaintiffs. Plaintiffs, therefore, prays for an award of punitive and exemplary
 24 damages against these individual defendants in an amount to be determined according to
 proof.

25 299.359. Plaintiffs suffered damages as a direct and proximate result of the illegal acts
 26 of the Phoenix Defendants.

COUNT VI

GROSS NEGLIGENCE

(All Defendants)

300.360. Plaintiffs incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

301.361. Under Arizona Revised Statute § 12-820.02(A) a public employee acting within the scope of the public employee's employment can be liable for damages and injuries if the employee was grossly negligent.

302.362. Roy's, Garza's, Ladines', Howards', and Ramirez' actions were willful and wanton with reckless indifference to Leontae's life and safety.

303.363. Roy's, Garza's, Ladines', Howards', and Ramirez' actions created an unreasonable risk of harm to Leontae and that risk was so great that it was highly probable that harm would have resulted.

304.364. Defendants systematically and repeatedly acted with reckless indifference towards Leontae's life and safety, including their acts and omissions set forth above, resulting in the wrongful death of Leontae.

305.365. Defendant City of Phoenix is vicariously liable under *respondeat superior* for the actions of any employee, agent, or servant of the City of Phoenix, including that of the other named Defendants in this case.

306.366. Defendant Roy was grossly negligent and acted with reckless indifference to Leontae's life and safety by using excessive force objectively unreasonable under the totality of the circumstances.

307.367. Defendant Garza was grossly negligent and acted with reckless indifference to Leontae's life and safety by using excessive force objectively unreasonable under the totality of the circumstances.

308.368. Defendant Ladines was grossly negligent and acted with reckless indifference to Leontae's life and safety by using excessive force objectively unreasonable under the totality of the circumstances.

1 309.369. The remaining Phoenix Defendants, Ramirez, Ravelo, and Howard breached
 2 the standard of care by failing to intercede or intervene to prevent their fellow officers from
 3 using unwarranted, reckless force with wanton disregard to the preservation of life.

4 310.370. The Phoenix Defendants, while acting as agents and employees for the
 5 Phoenix Police Department, owed a duty to Leontae to perform their responsibilities as
 6 officers of the law without reckless indifference to Leontae's life and safety.

7 311.371. The Phoenix Defendants, while acting as agents and employees for Phoenix
 8 Police Department, owed a duty to Leontae to act objectively reasonably and without
 9 reckless indifference to Leontae's life and safety.

10 312.372. The Phoenix Defendants' use of deadly and excessive force upon Leontae
 11 constitutes reckless indifference to Leontae's life and safety and gross negligence for
 12 which the Defendants are individually liable.

13 373. The Phoenix Defendants' conduct, in not using non-lethal force that was
 14 readily available, constitutes gross negligence for which the Phoenix Defendants are
 15 individually liable.

16 374. The Phoenix Defendants – after Leontae had been shot 19 times and lay on
 17 the ground – waited more than six (6) minutes before attempting any sort of health care on
Leontae.

18 375. Instead, they shot his body with a 40mm weapon to see if he was responsive.

19 376. Then, instead of immediately providing medical care, frantically moved his
body looking for a weapon.

20 377. On video, the Phoenix Defendants are distressed and frantic trying to find a
weapon that would have justified their actions in shooting Leontae.

21 313.

22 314.378. In taking the actions as described above, the Phoenix Defendants breached
 23 their duty to refrain from such unreasonable and recklessly indifferent conduct.

24 315.379. As a direct and proximate result of Defendants' breach, Leontae Kirk
 25 sustained severe and permanent injuries, suffered extreme pain and suffering, lost the
 26 ability to have and maintain meaningful familial relationships, lost the ability to provide
 27

1 for his daughter and his mother, and lost his life.

2 316.380. Defendants' acts and omissions set forth above, also demonstrate gross and
 3 wanton negligence in that each of them knew or had reason to know that their acts
 4 individually and collectively created an unreasonable risk of bodily harm to Leontae and a
 5 high probability that substantial harm would result.

6 **COUNT VII**

7 **BATTERY AND SURVIVAL ACTION PURSUANT TO A.R.S § 12-542, 14-3110**

8 *(Phoenix Defendants Roy, Garza, Ladines)*

9 317.381. Plaintiffs incorporate the allegations in the foregoing paragraphs as though
 10 fully set forth herein.

11 318.382. ~~The Phoenix Defendants Roy, Garza, and Ladines~~ intentionally shot Leontae
 12 causing harmful or offensive contact with Leontae.

13 319.383. As a direct and proximate result of ~~Roy's, Garza's, and Ladines' the Phoenix~~
 14 ~~Defendants'~~ harmful or offensive contact, Leontae died.

15 320.384. These Defendants' acts constitute a battery upon Leontae in the above-
 16 described bodily contact was intentional, unauthorized, or grossly offensive in nature.

17 385. The acts and omissions of these Defendants were intentional, negligent,
 18 reckless, and unwarranted, and without any just cause or provocation.

19 321.386. ~~These Defendants were known to use force – including lethal force – in~~
 20 ~~previous incidents with other suspects.~~

21 322.387. As a direct and proximate result of these Defendants' conduct, Leontae was
 22 deprived of his liberty, and was ultimately killed. The conduct described herein was
 23 undertaken by the Phoenix Defendants within the scope of their employment and under
 24 color of law such that their employer, Phoenix Police Department – and the City of Phoenix
 – are vicariously liable for their actions.

COUNT VIII

NEGLIGENCE, SUPERVISION, RETENTION, AND/OR TRAINING

(Sullivan, City)

323.388. Plaintiffs incorporate the allegations in the foregoing paragraphs as though fully set forth herein.

324.389. Under Arizona law, an employer may be held directly liable for negligent hiring, retaining and supervision of their employees if: i) The employer knew or should have known the risk of hiring, supervising, and training a particular employee and, ii) The employer's negligence proximately caused the plaintiff's injury.

325.390. Upon information and belief, the Phoenix Police Department through the City is ranked as the top policing agency in the nation for use of deadly force by officers.

326.391. As discussed herein, this got the USDOJ's attention and they began investigating the Phoenix Police Department for systemic violations through their failure to properly train, investigate, or discipline officers.

327.392. The City through the Phoenix Police Department was negligent in their hiring, supervision, retention, and/or training of the Defendants.

328.393. Defendant City and Defendant Sullivan's acts or failure to act deprived Leontae of his constitutional rights.

329.394. Defendant City and Defendant Sullivan have a duty to adequately train their police officers to protect members of the public.

330.395. The Phoenix Defendants and Defendant Sullivan were acting under the color of state law.

331.396. The Operation Orders of the Phoenix Police Department were not adequate to handle the usual and recurring situations that Phoenix Police officers face.

332.397. As a result of the USDOJ investigation, the Phoenix Police Department received suggestions to increase the usage of de-escalation techniques and decrease the employment of unwarranted deadly force.

333.398. Defendant City and Defendant Sullivan, undeniably failed to employ these suggestions from the USDOJ and maintains inadequate training.

334.399. Sullivan has publicly stated that over four hundred (400) officers had not received proper training on the use of less than lethal force.

335.400. The acts, omissions, and conduct of the Defendants as described herein were the direct and proximate cause of the injuries and death of Leontae and violated Leontae's constitutional, statutory and common law rights as guaranteed by the law and Constitution of the State of Arizona.

JURY TRIAL DEMAND

336.401. Plaintiffs hereby demand a jury trial in this matter as to all claims and against all Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests that the Court enter judgment against the Defendants and in favor of the Plaintiffs, as follows:

- a) For compensatory, general and special damages against each and every Defendant, jointly and severally, in an amount to be proven at trial;
- b) For all other non-pecuniary damages as to be proven at trial;
- c) For punitive and exemplary damages against Defendants in an amount appropriate to punish the wrongful conduct alleged herein and to deter such conduct in the future;
- d) For pre-and post judgment interest to the extent provided by law;
- e) For Plaintiffs' incurred costs, including all incurred attorneys' fees and court costs, pursuant to 42 U.S.C. §1988 and as otherwise authorized by any other statute or law; and
- f) For such other relief as this Court may deem proper.

RESPECTFULLY SUBMITTED this 25th day of October 2024.

MILLS + WOODS LAW, PLLC

1 By /s/ Sean A. Woods

2 Error! Reference source not found. Robert T.
Mills

3 Sean A. Woods
5055 North 12th Street, Suite 101
4 Phoenix, Arizona 85014
5 *Attorneys for Plaintiffs*

7 **CERTIFICATE OF SERVICE**

9 I hereby certify that on October 254, 20232024, I electronically transmitted the
10 foregoing document to the Clerk's Office using the ECF System for filing and transmittal
11 of a Notice of Electronic Filing to the following ECF registrants:

12 Sarah L. Barnes
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17 *Attorney for Defendants City of Phoenix, Sullivan,
Ladines, Garza, Roy, Makie, Ravelo, Ramirez,
And Howard, Traylor, and Reddy*

19 /s/ Ben Dangerfield